

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 14.20 of the Lincoln Municipal Code
2 relating to vacation of public ways by amending Section 14.20.020 to amend the procedure
3 for vacation of public ways and to establish an application fee of \$125.00; adding a new
4 section numbered 14.20.030 to provide for notice of hearing prior to action by the Planning
5 Commission or City Council on the proposed vacation; and repealing Section 14.20.020 of
6 the Lincoln Municipal Code as hitherto existing.

7 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8 Section 1. That Section 14.20.020 of the Lincoln Municipal Code be amended
9 to read as follows:

10 **14.20.020 Procedure for Vacation of Public Ways; Filing Vacation Ordinance.**

11 For the vacation of any street, alley, or public way, the owners of 100% of the property
12 abutting upon such street, alley, or public way proposed to be vacated shall file with the ~~City~~
13 ~~Clerk~~ Planning Director a petition for such proposed vacation upon forms approved by the
14 City Attorney, along with an application fee in the amount of \$125.00. Upon receipt of said
15 petition and the application fee, the Planning Director shall refer the proposed vacation to the
16 Planning Commission. The Planning Commission shall hold a public hearing upon the
17 proposed vacation and make a report regarding its conformity to the Comprehensive Plan.
18 The report of the Planning Commission, along with a report from the Planning Director ~~Before~~
19 ~~passing an ordinance for the vacation of any street, alley, or public way, the City Council shall~~
20 ~~require reports from the executive branch of the city as to how such proposed vacation would~~
21 ~~affect the City's planning, street system, traffic requirements, public utilities, and public~~
22 ~~improvements, shall be filed with the City Council.~~ The Planning Director's report shall
23 include information as to whether any sidewalk bonds are still outstanding and shall include

1 the estimated cost of any required reconstruction of street and alley returns and/or sidewalks,
2 and the cost of relocating any existing utilities, such as telephone facilities, electrical facilities,
3 water mains, sanitary sewers, etc. The report shall also include the amount determined by the
4 city to be the proper price to be paid by a purchaser for such street, alley, or public way
5 sought to be vacated, or in the alternative, a recommended exchange of property with the city.
6 After the reports of the Planning Commission and Planning Director have been filed, the City
7 Council shall, before enacting any ordinance vacating the street, alley or public way, hold a
8 public hearing in relation thereto.

9 The petitioners shall be required to deposit the money necessary to accomplish the
10 required reconstruction and the amount determined to be the proper purchase price prior to
11 the introduction of an ordinance to accomplish the requested vacation. Such funds deposited
12 with the City Clerk will be held until the vacation has become effective, at which time the
13 amount deposited for the necessary reconstruction shall be deposited by the City Clerk in the
14 street construction fund to accomplish the required reconstruction. Net proceeds paid to the
15 city for the purchase of a vacated street, alley, or public way shall be placed in the advance
16 acquisition fund.

17 Upon the passage of any ordinance vacating a street, alley, or public way in the City
18 of Lincoln, it shall be the duty of the City Clerk to immediately file a certified copy of said
19 ordinance in the office of the Register of Deeds for Lancaster County, Nebraska.

20 This section shall not be interpreted so as to interfere with the city's request for
21 vacation of a street, alley, or public way when the City Council has deemed such vacation to
22 be in the best interest of the city.

23 Section 2. That Chapter 14.20 of the Lincoln Municipal Code be amended by
24 adding a new section numbered 14.20.030 to read as follows:

25 **14.20.030 Notice of Public Hearing.**

26 Public hearings required to be held by the Planning Commission and City Council
27 under this chapter shall not be held until notice thereof has been given in compliance with
28 the following provisions:

1 (a) At least eight days before the date of hearing, the City Clerk shall have published
2 in a daily newspaper having a general circulation in the City of Lincoln a notice of the time,
3 place, and subject matter of the public hearing.

4 (b) At least ten days before the date of hearing, the Planning Director shall cause
5 notice of the proposed vacation to be sent to (i) the petitioners; and (ii) to the record owners
6 of property located within 200 feet of the proposed vacation when such owners' property is
7 located within the corporate limits of the City and to the record owners of property located
8 within one-fourth mile of the proposed vacation when such owners' property is located
9 outside the corporate limits of the City. Such notice shall be sent by regular United States
10 mail, postage prepaid, to each petitioner and each such record owner of property at the
11 address as it appears on the last equalized assessment roll of the county or as known to the
12 Planning Director.

13 (c) No decision or recommendation which is required to be made under this
14 chapter shall be void or invalidated or affected in any way for any irregularity, defect, error,
15 or failure on the part of the Planning Director to cause notice to be given as required in
16 subsection (b) above.

17 (d) It shall not be necessary to give further notice of an adjourned or continued
18 public hearing.

19 (e) Other notice, as may be deemed appropriate by the public body conducting the
20 hearing, may be given in advance of public hearings. Such notice is not mandatory or
21 required as a condition precedent to any such public hearing.

22 Section 3. That Section 14.20.020 of the Lincoln Municipal Code as hitherto
23 existing be and the same is hereby repealed.

24 Section 4. That this ordinance shall take effect and be in force from and after
25 its passage and publication according to law.

Introduced by:

03-127

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2003:

Mayor